

REMARKS

Claims 2-21 are pending in this application after this amendment. Claims 2 and 19 are independent. New claim 21 is presented for consideration by the Examiner. No new matter has been added by the addition of claim 21. Based on the amendments and remarks made herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicant has amended the claims to more appropriately recite the claimed invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejections, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner rejected claims 19-20 under 35 U.S.C. §103(a) as being unpatentable over Kyle (U.S. Patent Application Publication No. 2003/0215114) in view of Slocum (USP 6,430,306). Applicant respectfully traverses this rejection. Applicant wishes to thank the Examiner for indicating claims 2-18 are allowed.

Improper Finality of Outstanding Official Action

In the outstanding Official Action, on page 2, the Examiner correctly notes MPEP §707.07(e) which states that second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement.

In the outstanding Official Action, the Examiner withdrew his previous ground of rejection of claim 19 and asserted a new ground of rejection against claim 19. However, Applicant did not amend claim 19 in their previous reply, nor did Applicant file any information disclosure statement subsequent to their filing of the previous reply. The new ground of rejection was not necessitated by Applicant's amendment of the claims nor based on information

submitted in an information disclosure statement. As such, the finality of the outstanding Official Action is improper and should be withdrawn.

Claim Rejections – 35 U.S.C. §103

By this amendment, Applicant has amended claim 19 to recite, *inter alia*, a personal authentication apparatus comprising a particular person comparing unit comparing said user's face-picture taken by said image pickup unit with the stored face-picture of a person of interest, wherein the stored face-picture of the user is different from the stored face-picture of the person of interest, outputting as comparison result a degree of similarity therebetween, and deciding whether said degree of similarity is higher than a predetermined value; a personal picture acquiring unit for acquiring the stored template face-picture of the user from said memory; and an authentication unit, when said degree of similarity is higher than said predetermined value, determining whether or not said user's face-picture taken by the image pick-up unit is identical with the stored template face-picture of the user by a first method, and when said degree to similarity is lower than said predetermined value, determining whether or not said user's face picture taken by the image pick-up unit is identical with the stored template face picture of the user by a second method, the first method being different than the second method.

As agreed by the Examiner in the outstanding Official Action on page 6, the prior art fails to teach or suggest a particular person comparing unit comparing said user's face-picture taken by said image pickup unit with the stored face-picture of a person of interest and an authentication unit, when said degree of similarity is higher than said predetermined value, determining whether or not said user's face-picture taken by the image pick-up unit is identical with the stored template face-picture of the user by a first method, and when said degree to similarity is lower than said predetermined value, determining whether or not said user's face picture taken by the image pick-up unit is identical with the stored template face picture of the user by a second method, the first method being different than the second method. As these elements are recited in claim 19, the claim is in proper form for allowance.

Based on the amendment made herein, Applicant respectfully submits that claim 19 in now in proper form for allowance.

It is respectfully submitted that claim 21 is allowable based on its dependency on claim 19. It is further respectfully submitted that claim 20 is allowable based on its dependency on allowable claim 2.

Conclusion

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinnet, Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted

By 

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